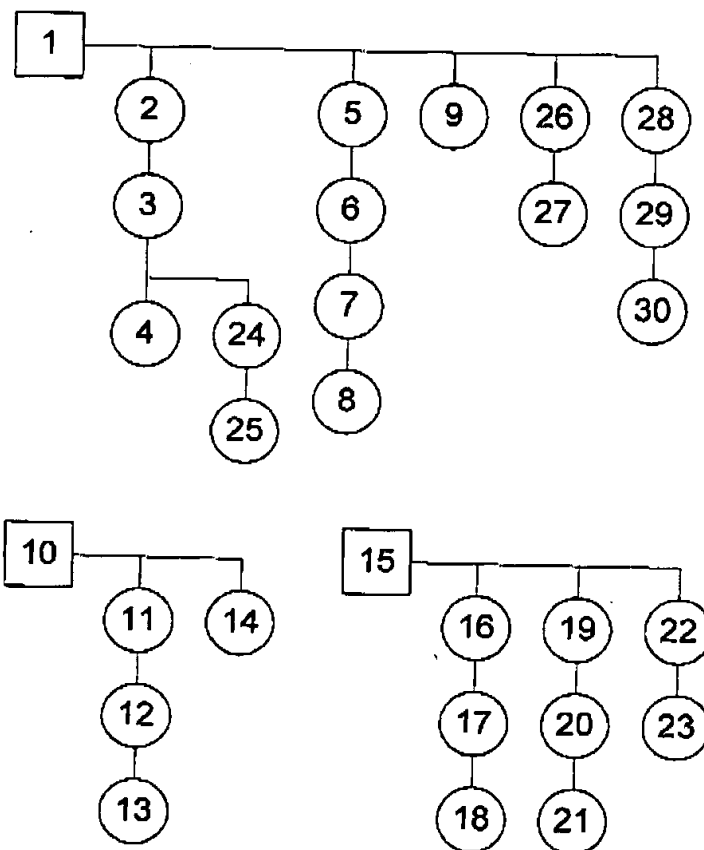In re Application of FRIEDEL et al.
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REMARKS

Reconsideration of the application is respectfully requested. An Office action mailed August 26, 2004 is pending in the application. Applicants have carefully considered the Office action and the references of record. In the Office action, claims 1-23 were rejected under 35 U.S.C. § 102. In this response to the Office action, claims 1, 10, and 15 have been amended. Claims 24-30 have been added. Claims 1-30 are now pending in the application. The following diagram depicts the relationship between the independent and dependent claims.

<u>Rejections Under 35 U.S.C. § 102 of the Independent Claims</u>

Each of the independent claims 1, 10 and 15 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,718,380 to Mohaban et al. (hereinafter

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Mohaban). The Manual of Patent Examining Procedure (M.P.E.P.) states a claim is anticipated by a reference only if each and every element as set forth in the claim is found in the reference and, furthermore, that the identical invention must be shown in as complete detail as is contained in the claim.

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. ... The identical invention must be shown in as complete detail as is contained in the ... claim.

(M.P.E.P. § 2131, subsection titled "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM," emphasis added). Each of the independent claims 1, 10 and 15 includes at least one feature that is not found in *Mohaban*. For at least this reason, the rejection under 35 U.S.C. § 102(b) of each independent claim 1, 10 and 15 should be withdrawn.

For example, each of the independent claims 1, 10 and 15 requires inheriting an instance of the enterprise-wide policy as the array-wide policy such that that the array-wide policy is at least initially set to the enterprise-wide policy.

> Inheriting an instance of the enterprise-wide policy as the array-wide policy such that the array-wide policy ... is at least initially set to the enterprise-wide policy.

(Independent claim 1, as amended, emphasis added). Inheritance in *Mohaban* is described in the context of the "class inheritance hierarchy" of Table 4. (*Mohaban*, column 18). However, the class inheritance of *Mohaban* is not the inheriting of an instance required by the claims. There is a distinction in the art between object classes and object instances. An object class is an abstraction analogous to a product design whereas an object instance is a realization analogous to a product created according to a design. The class inheritance of *Mohaban* enables one class to inherit attributes and behavior of another class (e.g., classes of the class inheritance hierarchy). Inheriting of an instance as required by the claims configures one object instance with another object instance (or copy of another object instance). Object class hierarchies are independent of object instance structures. In particular, class inheritance does not imply or suggest the configuration of a particular object instance with another. For example, a class hierarchy specifying that a class of policies has a class of policy rules does not specify the policy

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rule instances with which each policy instance is configured. Each of the independent claims 1, 10 and 15 has been amended herein to emphasize this distinction.

Furthermore, even if the class inheritance of *Mohaban* is construed to be the inheriting of an instance required by the claims, *Mohaban* still fails to teach each and every element of the claims in as complete detail as is contained in the claims. The Office action cites private and shared "policers" (*Mohaban*, column 22, lines 50-64) as teaching the required relationship between array and enterprise policy objects - - i.e., "the array-wide policy of each array policy object is at least initially set to the enterprise-wide policy." (Independent claim 1, as amended, emphasis added). Applicants do not understand the basis for the assumed correspondence between private and shared policers in *Mohaban* and the array and enterprise policy objects in the claimed invention. However, if, for the purposes of applying *Mohaban* to the claims, private policers are said to correspond to array policy objects and shared policers are said to correspond to enterprise policy objects then, in fact, *Mohaban* teaches away from the claims. *Mohaban* states that "by default, policers are not shared" (*Mohaban*, column 22, lines 66-67, emphasis added) whereas each of the independent claims 1, 10 and 15 requires that the array-wide policy of each array policy object is at least initially set to the enterprise-wide policy.

Not only does *Mohaban* fail to describe the claimed invention, when fairly considered, it also fails to suggest all of the features of the independent claims 1, 10 and 15. Therefore, a rejection under 35 U.S.C. § 103(a) based on a combination of teachings including those in *Mohaban* would be inappropriate.

Newly Added Claims

Claims 24-30 have been added in this amendment to more particularly point out and distinctly claim the invention as described by the specification. In compliance with 37 C.F.R. § 1.121(f), they do not add new matter.

The Remaining Dependent Claims

Each of claims 1, 10 and 15 is in independent form, whereas all of the remaining claims depend directly or indirectly on one of these three independent claims. The

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dependent claims are allowable for at least the same reasons that the three independent claims 1, 10 and 15 are allowable in that the dependent claims incorporate the features of the independent claims. Nevertheless, the dependent claims further define subject matter not shown or rendered obvious by the prior art of record. Because the independent claims are allowable over the applied prior art, applicants do not believe remarks addressing this further subject matter are necessary herein.

CONCLUSION

The application is considered in good and proper form for allowance, and the examiner is respectfully requested to pass this application to issue. If, in the opinion of the examiner, a telephone conference would expedite the prosecution of the subject application, the examiner is invited to call the undersigned attorney.

Respectfully submitted,

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Date: November 24, 2004

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